

# **Deficiency Progress Report – Update 1**

Report Submitted: March 17, 2009

**CUPA: San Mateo County Environmental Health Division**

**Evaluation Date: December 16 and 17, 2008**

## **Evaluation Team:**

Kareem Taylor, Cal/EPA

Jeff Tkach, CalEMA (formerly OES)

**Corrected Deficiencies: 1, 2, 3**

**Next Progress Report (Update 2) Due: June 15, 2009**

[Please update the deficiencies below that remain outstanding.](#)

1. **Deficiency:** The CUPA's FY 2007/2008 Annual Summary Reports contained some incorrect information.
  - The Annual Single Fee Summary Report (Report 2) shows that the CUPA's total CalARP stationary sources are 15; however, it also shows that total businesses subject to the CalARP surcharge are 19. There appears to be a typo in the "Counts" section of report 2 for the CalARP program.
  - The Annual Enforcement Summary Report (Report 4) shows "0" facilities with violations for the business plan and CalARP program elements even though enforcement actions have been implemented.

**Preliminary Corrective Actions:** By February 17, 2009, the CUPA will complete its revised FY 2007/2008 Annual Summary Reports

The CUPA will submit a copy to Cal/EPA.

**CUPA's 1<sup>st</sup> Update (3-17-09):** The first bullet item for Deficiency 1 was corrected during the December 2009 CUPA Evaluation. I checked with our fiscal staff and determined that we had neglected to inactivate the CalARP surcharge for four stationary sources that were eliminated from the CalARP Program due to below threshold quantities of regulated substances. This correction is reflected in the revised Annual Single Fee Summary Report (Report 2) submitted with this Progress Report.

Please see the attached revised Annual Enforcement Summary Report (Report 4).

**Cal/EPA's 1<sup>st</sup> Response:** Due to the corrective actions, Cal/EPA considers this deficiency corrected.

2. **Deficiency:** The CUPA's Inspection and Enforcement (I and E) plan does not contain a schedule of inspection frequencies for all program elements.

**Preliminary Corrective Actions:** This deficiency was corrected during the evaluation. Inspection frequencies were provided for all program elements during the December 2008 CUPA Evaluation.

3. **Deficiency:** The CUPA does not have financial management procedures that includes the following:

- A single fee system in compliance with Title 27, section 15210;
- A fee accountability program in compliance with Title 27, section 15220; and
- A surcharge collection and reimbursement program in compliance with Title 27, section 15250.

**Preliminary Corrective Actions:** By March 17, 2009, the CUPA will complete its financial management procedure that is in compliance with Title 27, section 15180 (e)(5).

The CUPA will submit a copy to Cal/EPA along with its first progress report.

**CUPA's 1<sup>st</sup> Update (3-17-09):** A revised Financial Management Procedure is attached for your review.

**Cal/EPA's 1<sup>st</sup> Response:** Due to the corrective actions, Cal/EPA considers this deficiency corrected.

4. **Deficiency:** In some cases, the CUPA is not following-up and/or documenting return to compliance (RTC) for businesses cited for violations in their inspection reports and notices of violation. Out of 16 files reviewed by Cal/EPA, 3 files either did not contain documentation of RTC or CUPA follow-up documentation did not contain sufficient detail to determine if all cited violations have been corrected. Below are some examples of businesses cited for violations, but documentation of RTC was either insufficient or not found:

- San Carlos Service and Tune Up Center – inspected 2-19-08
- D'Garcis Auto Body – inspected 8-27-08
- Machinery and Equipment Co – inspected 9-28-07

Documenting facility RTC and CUPA follow-up actions is required as part of the CUPA's implementation of its I and E plan. In addition, this information is required for the CUPA's Annual Summary Reports.

**Preliminary Corrective Actions:** By March 17, 2009, the CUPA will follow-up with businesses cited for violations and document RTC actions. In addition, the CUPA will include the disposition of all previously cited violations (corrected or not) in the reinspection reports.

On the first progress report, the CUPA will submit to Cal/EPA an action plan as to how it will promote consistency in its follow-up actions.

**CUPA's 1<sup>st</sup> Update (3-17-09):** The specialists in each CUPA element and the enforcement specialist are meeting to develop refresher training for citing violations and appropriate follow-up procedure. The training is scheduled for mid-May to accommodate newly hired staff beginning in April. In addition, we will be moving toward automated Notice of Violation Letters. These letters will be generated and automatically sent to facilities that remain in violation beyond their comply by date. In the interim, inspectors will receive monthly reminders of their open violations that have exceeded their comply by date.

**Cal/EPA's 1<sup>st</sup> Response:** The CUPA's action plan is satisfactory and positive progress is being made towards correction of this deficiency. On the next progress report, please report the total number of facilities with violations that are beyond their "comply by" date that have not been followed-up on. Also, update Cal/EPA on the progress of the staff training and the automate NOV letter system. Cal/EPA requires additional updates to verify correction of this deficiency and suggests changing the corrective action date to September 17, 2009. Please contact Cal/EPA to confirm if this is acceptable.

**CUPA's 2<sup>nd</sup> Update:** Enter Update Here

5. **Deficiency:** The CUPA is not requiring all businesses subject to the hazardous materials reporting requirements to annually submit their inventory or certification statement of no-change. 10 of the 17 facility files reviewed did not contain a current annual inventory or annual certification of no change.

**Preliminary Corrective Actions:** By March 17, 2009 the CUPA will submit an action plan to Cal/EPA outlining how the CUPA intends to maintain annual inventory certifications among businesses subject to annual inventory requirements. The CUPA will implement the action plan.

**CUPA's 1<sup>st</sup> Update (3-17-09):** During the evaluation, I discussed our understanding that an inspection report documenting the status of the HMBP was one method for a business to annually certify the accuracy and completeness of the HMBP. This understanding resulted from discussions with State OES evaluators during the previous CUPA Evaluation. Once I discussed the method

of annual certification expected by the current evaluator, I modified the procedure that had been in place for the annual certification.

Within two weeks of the December 2009 CUPA Evaluation, I had instructed all inspection staff that businesses must submit a HMBP update annually or a signed HMBP Annual Certification form, no exceptions. If the business fails to annually comply with this certification requirement, then inspection staff will issue a Notice to Comply for a minor violation. Documentation for the annual certification and any associated violations will be kept on file.

**Cal/EPA's 1<sup>st</sup> Response:** Please refer to CalEMA's response. CalEMA requires additional updates to verify correction of this deficiency and suggests changing the corrective action date to September 17, 2009. Please contact Cal/EPA to confirm if this is acceptable.

- **CalEMA's Response:** The CUPA has taken the proper actions in order to correct this deficiency. In the next progress report, the CUPA will report on the progress of this deficiency.

**CUPA's 2<sup>nd</sup> Update:** Enter Update Here

6. **Deficiency:** The CUPA is not requiring all businesses, subject to the hazardous materials business plan to certify and review their business plan every 3 years. 6 of 17 Facility Files reviewed did not have their business plan reviewed within the last 3 years.

**Preliminary Corrective Actions:** By March 17, 2009, the CUPA will submit an action plan to Cal/EPA outlining how the CUPA intends to maintain business plan review and update within the state mandated 3 year period for businesses subject to the Hazardous Materials Business Plan. The CUPA will implement the action plan.

**CUPA's 1<sup>st</sup> Update (3-17-09):** The 3-year HMBP certification is a more in depth HMBP review and certification that covers the entire HMBP including the Emergency Response and Employee Training Sections. Similar to the annual certification, this 3-year certification must be addressed by the business submitting a complete HMBP that includes the above referenced sections or by submission of a certification form.

We have modified the HMBP Annual Certification form to include a check box that indicates that the certification is for a 3-year certification. If the business fails to submit a revised/updated HMBP or the one page HMBP Annual/Triennial Certification form at the 3-year anniversary date, they will be issued a Notice to Comply for a minor violation. Documentation of the triennial certification and any associated violations will be kept on file.

**Cal/EPA's 1<sup>st</sup> Response:** Please refer to CalEMA's response. CalEMA requires additional updates to verify correction of this deficiency and suggests changing the corrective action date to September 17, 2009. Please contact Cal/EPA to confirm if this is acceptable.

- **CalEMA's Response:** The CUPA has taken the proper actions in order to correct this deficiency. In the next progress report, the CUPA will report on the progress of this deficiency.

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